

IN THE HIGH COURT OF JUDICATURE AT BOMBAY NAGPUR BENCH
NAGPUR.

LETTERS PATENT APPEAL NO. 204 OF 1998
IN
WRIT PETITION NO. 2415 OF 1986
& W. P. NO.1255/1986

Deorao Ganpat Deogade,
aged 38 yrs. Occu. Service,
R/o Neri, Tah. Chimur,
Distt. Chandrapur.

APPELLANT.

VERSUS

1. The Presiding Officer of
School Tribunal, Nagpur.

2. Lok Kalyan Shikshan
Sanstha, Neri,
Tah. Chimur, Distt.
Chandrapur through
its President.

3. The Education Officer,
Zilla Parishad,

Chandrapur.

4. S. N. Pise, Head Master,
Janata Vidyalaya, Neri,
Tah. Chimur, Distt.
Chandrapur.

5. D. G. Pise, President,
Lok Kalyan Shikshan
Sanstha, Neri, Tah. Chimur
Distt. Chandrapur.

RESPONDENT.

Shri.R. B. Pendharkar, Senior Counsel for the appellant.
Shri. A. Z. Jibhkate, Counsel for the respondents.

CORAM: ANOOP C. MOHTA &
C. L. PANGARKAR JJ.

Date: 2nd SEPTEMBER 2008.

ORAL JUDGMENT: (Per Anoop V. Mohta J.)

Appellant being aggrieved by the judgment dated 08.09.1998 passed by the learned Single judge in Writ petition No. 2415 of 1986 preferred this letter patent appeal.

2. By order dated 12.10.1998 this Court has admitted the matter and granted status quo. Interim order so granted had been in force. That now the appellant is not in service

and enjoyed all the benefits.

There is no dispute so far as this part is concerned.

“5(i) That, the applicant/appellant has filed the present Letters Patent Appeal challenging the order passed by Hon'ble Single Judge, in Writ Petition No. 2415/1986 and Writ Petition No. 1285/1986. The Letters Patent Appeal has been admitted on 12/10/1998 and this Hon'ble Court was pleased to grant rule in terms of interim relief. Hence, the applicant was enjoying his service till he reached the age of super-annuation.

5(ii) That, the Management was pleased to pass the Resolution on 4/11/2004 and granted the status to the appellant as permanent employee w.e.f. 8/2/1982. The copy of this Resolution is annexed with this application as Annexure No.7. Not only this but the respondent Nos. 2, 3 and 5 Management was also pleased to forward the letter to the respondent No.4-the Education officer on 14/2/2005 in which it is stated by the Management that, the appellant was working with the respondent No.2 w.e.f. 8/12/1982 till 31/12/2004 till he reached the age of superannuation. The pension case of the appellant was therefore sent to Education officer – the respondent No.4 by the respondent No.2. The copy of this letter is annexed with the Application as Annexure-8.

5(iii) That the pension of the appellant has been sanctioned by respondent No.2 and it was sent to office of Accounts General (Maharashtra), Nagpur and the Accounts General in turn granted the pension and all monetory benefits to the appellant. That the appellant received Rs. 95,063/- as gratuity and Rs. 1,17,989/- as the pensionary benefits. The copy of this letter issued by the Accountant General's office as Annexure No.9.

5(iv) That the appellant was drawing his regular salary by virtue of interim order passed by this Hon'ble Court on 12/10/1998 till he reached to the age of superannuation and after the pension case of the appellant has been sanctioned by respondent No.4-the appellant is getting the regular pension from the date of retirement and he draws the pension being Rs. 3165/- as on the date of filing this application. It is pertinent to note that there was no break in service and he was continuously working with the respondent No.2 till he reached the age of superannuation by reasons of the Court's order. That the appellant has to shoulder the responsibility of two daughters of marriageable age and son, aged about 22 years but jobless including his wife.

5(v) The applicant/appellant was reinstated in service with continuity of service as per order of Tribunal, dated 15/4/1985 and appellant continued ever since the superannuation as aforesaid. His pension case is settled and he is being paid pension till date ever since superannuation. By this conduct the respondents have acquised in the order passed by Tribunal and the orders passed in present letters patent appeal from time to time. Hence they have waived their rights, if any to take action against the appellant and acquiesced in the orders passed. This by itself is sufficient to allow the L. P. A. in the interest of justice on the doctrine of acquisance waived and estoppel."

3. In view of the above without expressing anything on merit we are disposing of this letter patent appeal as practically nothing survives in the matter with regard to the challenges as raised in the letters patent appeal.

4. Aspect of back wages as refused by the Tribunal

while granting the reinstatement in view of above also need no decision. We are not inclined to pass or interfere with the said order also for the above reasons. In the result appeal is disposed of accordingly.

JUDGE

JUDGE

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